

Living together – your rights

This fact sheet is about the rights of people who are living together as a couple without being married or having a civil partnership.

In some areas of the law, you may not have the same rights as you would do if you got married or entered into a civil partnership. This is a summary of your rights. For more information, see under **Further help** at the end of this fact sheet.

What the law says

The terms common-law wife or husband are frequently used to describe partners who live together, but these terms are misleading because they have no legal standing. If you want to set down your legal rights in certain areas of your relationship with your partner, you can draw up a cohabitation contract which outlines the rights and obligations of each partner towards each other. Cohabitation contracts can cover, for example, shared responsibility for your children, ownership of property which you live in, and ownership of jointly owned possessions. You will need the help of an experienced solicitor to do this.

Responsibility for children

An unmarried father is not necessarily assumed to be the father of his child. An unmarried mother will automatically have full parental responsibilities and rights for her child. An unmarried father has no automatic parental responsibilities and rights (other than the responsibility to financially maintain his child). If he jointly registers the birth of his child with the child's mother on or after 4 May 2006 he will automatically acquire full parental rights and responsibilities towards his child and will share these with the child's mother. Alternatively, he can make a formal agreement (this is called a parental responsibilities agreement) with the child's mother or he can apply for a court order granting him rights.

If you are an unmarried father, you have a financial responsibility for your child even if you are neither living with the mother nor named on the child's birth certificate. The Child Maintenance Service can contact you for maintenance.

If you separate, you and your partner may make an informal arrangement for contact with your child. If this is not possible, a court can be asked to intervene. The court order will usually allow contact between the child and the parent with whom the child is not living, unless there are exceptional circumstances.

If you are in a same sex relationship, you have no automatic parental responsibility for your partner's children. You may be able to get parental responsibility by applying to court.

Adoption

If you live together as a couple without being married (including same sex or civil partners) you can adopt a child together.

Death and inheritance

If your partner dies without leaving a will, you will not automatically inherit anything unless you and your partner owned property jointly. From 4 May 2006, you can apply to court (within 6 months of your partner's death) for a share of their net estate. However, if you want to be sure that you and your partner inherit from each other you both need to make wills.

Debts

You and your partner are legally responsible for your own debts, for the whole of debts in joint names and for debts for which you have 'joint and several' legal responsibility. For example, you are both responsible for paying the council tax. If you have acted as guarantor for your partner, you will be legally responsible for the debt.

Money and possessions

The ownership of possessions can be complicated, but in general the rules are as follows:

- any goods you owned before you started living with your partner will remain yours
- any household goods which were bought or acquired while you were living with a partner are presumed to be owned equally
- any gifts or inherited goods belong to the person who received them
- property will be owned jointly if it was bought from money in a joint household expense account.

Bank accounts

If you are living with your partner and you have separate bank accounts, neither of you will have access to money held in the other partner's account. If one partner dies, any balance in the account will be the property of the estate and cannot be used until the estate is settled.

If you have a joint account, both partners will have access to the money in the account. If the account is in joint names, on the death of one partner, the whole account immediately becomes the property of the other if the mandate signed when the account was opened allows for this.

Financial support

Neither partner has an automatic legal duty to support the other financially. One partner can apply to court within a year of the relationship ending for a limited financial settlement. If you are living together and claiming Income Support or Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance (ESA), Tax Credits, Housing Benefit, Council Tax Reduction Scheme or Pension Credit you will be treated as a couple and your income assessed jointly. This is the case whether you are a same sex or opposite sex couple.

Voluntary agreements to pay maintenance to each other may be difficult to enforce.

Occupational and personal pensions

The rules of pension schemes vary. Whether or not you can benefit from a scheme to which your partner belongs will depend on the scheme. Most schemes offer benefits to dependent children and some will offer benefits to a dependent partner. If the scheme offers benefits to an opposite sex partner, it should also offer benefits to a partner in a same-sex relationship, otherwise there may be discrimination.

Student grants and loans

A partner's income is taken account of when deciding eligibility for a student grant or loan. This is the case whether you are married, in a civil partnership or just living together. The student can claim extra money for any children and a dependant's allowance for her/his partner if eligible.

Housing

Tenants

If you live in rented accommodation with your partner, one or both of you may be the tenant. If your partner is the sole tenant and asks you to leave when you want to stay, you have no right to stay if you are not the tenant. You can ask a court to grant you the right to remain in the home. If you are in this position, you should get legal advice.

Owner-occupiers

A property may be owned in the sole name of one partner or may be owned by both of you. If your partner is the **sole owner**, you may have no rights to remain in the home if your partner asks you to leave. However, you can ask the court to grant you the right to remain in the home. You will need to get legal advice on this.

If you do own your home **jointly** with your partner and you decide to leave, you should take steps to protect your right to go back there if you want to. You will also need to protect your share in the value of the home by making sure that your partner does not sell it without your knowledge. You will need to get legal advice on this.



Next-of-kin and medical consent

In some situations, for example, if you go into hospital, you may be asked to give details of your next-of-kin.

Some organisations will usually accept the name of an unmarried partner who lives with you as the next-of-kin. If you want to name your partner as next-of kin, you should insist on this. However there is little you can do if the organisation refuses to accept it.

No one is entitled to give consent to medical treatment for another adult. In practice, doctors do usually discuss decisions with the patient's family, and this should not usually exclude a partner even if you are not married or in a civil partnership.

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. Find your nearest CAB at www.cas.org.uk or check in your phone book.

Finding a solicitor

The website of the Law Society for Scotland can help you find a solicitor who is an expert in the area of law you need. Go to www.lawscot.org.uk.

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The law changes frequently. To confirm you are looking at the most up-to-date version, download the fact sheet from www.citizensadvice.org.uk/scotland or contact your local Citizens Advice Bureau.

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